

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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MIGUEL FIGUEROA,	:	
	:	Civil No. 18-16026 (KM)
Petitioner,	:	Civil No. 19-9101 (KM)
	:	
v.	:	<b>MEMORANDUM AND ORDER</b>
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
	:	

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Petitioner, Miguel Figueroa, a federal prisoner presently incarcerated at FCI Berlin, in Berlin, New Hampshire, is proceeding pro se with a motion to vacate, set aside, or correct a sentence, pursuant to 28 U.S.C. § 2255, under the docket number 18-cv-16026. Petitioner's original form motion lacked the required notice under *United States v. Miller*, 197 F.3d 644 (3d Cir. 1999). Accordingly, I provided the required notice to petitioner and directed him to provide notice within 45 days of whether he (1) wished to have his motion ruled on as filed or (2) wished to withdraw his motion and submit one timely, all-inclusive § 2255 motion. (Civ. No. 18-16026, DE 6.)

On March 25, 2019, the Court received another § 2255 motion, which, it appears, petitioner intended as an amended, all-inclusive pleading in his pending proceeding. This motion was erroneously filed as a new § 2255 motion under a different docket number, 19-cv-9101. (Civ. No. 19-9101, DE 1.) Accordingly, I will direct the Clerk to file this motion on the proper docket and will direct the government to file an answer to it.

Accordingly, IT IS this 9th day of April 2019  
ORDERED that the Clerk of the Court shall docket as an amended § 2255 motion in the proceeding *Figueroa v. United States*, Civ. No. 18-16026, the motion and attachments received

on March 25, 2019, and erroneously filed March 29, 2019, as a new pleading on the docket Civ. No. 19-9101 (Civ. No. 19-9101, DE 1); and it is further

ORDERED that the Clerk shall close the proceeding erroneously opened as Civ. No. 19-9101; and it is further

ORDERED that respondent shall file a full and complete answer to the motion within forty-five (45) days of the entry of this order; and it is further

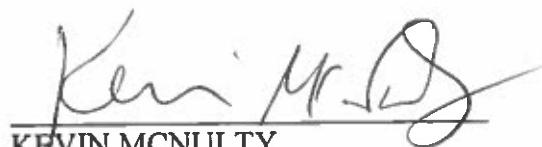
ORDERED that respondent shall raise by way of its answer any appropriate defenses that it wishes the Court to consider, including, with respect to the asserted defenses, relevant legal arguments with citations to appropriate legal authority; and it is further

ORDERED that respondent shall also address in its answer the substantive merits of petitioner's arguments; and it is further

ORDERED that the answer shall be accompanied by certified copies of all notices, opinions, documents, transcripts, or recordings of any proceedings, including all documentation that may be material to the questions raised in the motion; in lieu of providing certified copies, however, the government may cite to the criminal docket by referencing the ECF docket entry number and the page; and it is further

ORDERED that petitioner may file and serve a reply in support of the motion within forty-five (45) days after the answer is filed; and it is further

ORDERED that the Clerk shall serve a copy of this order on petitioner by regular U.S. mail.



KEVIN MCNULTY  
United States District Judge